

Assessment of Copyright Law in Journalism Practice in Nigeria

Dr. Gabriel T. Nyitse

Senior Lecturer

Department of Mass Communication, Bingham University.

Ndernnen Inja

Department of Mass Communication

University of Mkar, Mkar, Gboko Benue State

ABSTRACT

The right to protect one's intellectual property overtime has increasingly become pertinent given credence to our day to day activities in our modern age. Hence, it is essential that people's mental efforts which are often seen or recognized in the society should be protected from piracy and plagiarism. This paper is positioned to examine how copyright law is used to check replication of peoples work without their permission and to encourage originality of intellectual property produced both in private sectors and in the journalism practice. The paper thus, made laudable findings. This right, however, does not bestow on the copyright owner monopoly to control access to copyrighted materials. This paper discusses copyright law and journalism as its key concepts. The study on the illegal practices of copyrighted work as damaging to the rights of owners of copyrighted materials as it stifles creativity, innovation and growth, and the summary of the Laws guiding copyright materials and aimed at balancing the exclusive rights of copyright owners and access to information by all, in order not to harm researchers, and erudite. The paper suggests that there is need to raise awareness about copyright law in journalism practice in order to discourage violations, thereby robbing copyrighted owners of the benefit of their labour.

Keywords: Copyright law, intellectual property, Journalism, Nigeria

INTRODUCTION

In a civilized society the kernel of a copyright is basically to protect intellectual property of a person and to stop it from being reproduced or plagiarized and sold by unauthorized persons. Thus, it enables the originator (author) of the work to enjoy the fruit of his/her labour. Copyright does not protect mere ideas, but it protects the expression of an idea in a tangible form.

Paul Marett states that (1988, p.11), "intellectual property has come into vogue relatively lately. To define property rights in most of the various intangible products of the human intellect, often times the term is used to include copyright, the law of confidence and others are classified as industrial property rights such as Patent, Trademark and industrial design. In line with Paul's assertion, David, B. (2007, p.67), opines that intellectual property as that area of law which concerns legal rights associated with creative effort or commercial reputation and goodwill. He stressed that intellectual property law deals with the protection of inventions. From his

definition, this suggests it is a means of safeguarding the fruits of ones' creativity and maintaining their incentives to invest in innovation.

From the above scholarly definitions, the importance and pre-eminence accorded to copyright in the protection of intellectual property all over the world has made it imperative for us to have a look at our own local legislation to enable us see whether we are moving with the realities of the modern commercial world. Hence, it is imperative to note that the principal object of intellectual property is to ensure that consumers access a variety of products at the lowest possible price. Intellectual Property law ensures private property rights enabling individual and business outfits to appropriate to themselves the value of the information they produce and encourage them to produce more.

Technically, it is possible to pass on someone's intellectual property like other kinds of property by gift, sale or legacy, however, this could be temporary or permanent in nature. Although, it is a right that is limited in nature. Copyright is a legal right that protects the owner of an intellectual property from being exploited. The aim of the law is to protect indiscriminate copying and distribution of an author's work without the permission of the originator. However, in Nigeria, "Nigerian Copyright Commission" NCC has enacted laws governed by the Copyright Act 1988 with its amendments of 1992 and 1999 which is re-codified in the Laws of the Federation of Nigeria 2010 to fight against copyright piracy which discourages creativity.

In Nigeria today, copyright/piracy has hit all sectors in the industry including the journalism practice. Copyright in journalism has gained relevance in all media organizations. As a general belief, journalists do not require the permission of the copyright owner where the copyright period has expired, thus they will not use substantial or key part of the material.

Journalism is known as the practice of reporting timely news and information to the public for their daily consumption. This vision is rooted in the First Amendment, from which journalists draw their purpose as societal watchdog. The journalistic Professional Code of Ethics under the law is to protect from annexation the fruits of a person's work (Babafemi, 2007). Using someone's work without their permission is a form of copyright violation which is against the journalism practice and code of ethics. The duty of the journalist in its profession is to fill those ends by striking and seeking the truth and providing a fair and comprehensive account of events or issues in the society. However, journalists from all media and specialties strive to serve the public with thoroughness and honesty." The profession of journalism is, thus, well-defined by its mission to inform the public of news worthy events that unfold in the society with a touch of originality in reportage. Today, Journalists bump into a world that is seamlessly copyrighted. Copyright legislation enacted in 1976 immensely expanded copyright protection, among other things extending copyright terms, and eliminating the necessity for renewal and other copyright formalities, making copyright the default for published and unpublished works, and creating the conditions for an explosion of secondary liability.

It is essential to note that, journalists on a daily basis bump into copyright policy while trying to meet their mission. They pervasively quote existing culture in their work, in order to offer proof of a claim, to provide further information about a described incident, to provide depth and understanding, to enhance cultural critique (e.g. in book reviews), and to provide historical understanding. They routinely quote sources from other news media, from government

documents, think-tank reports, books and papers, memos and interviewee's words. In some cases, most of this source is copyrighted. Odunowo (2002) bemoans that copyright law in its practice protects the owner's property rights in literary and artistic works against those who adopt the exact system of words and arrangement employed by the writer or producer in the production of his work.

Supporting the nexus that exist in the above scholarly debate, it is worthy to note that, without a code of best practices to guide journalistic practice, insecurity about how to employ fair use journalistically has grown. With changing and threatened business models, all large copyright holders including publishers, the film industry, the record business, and newspapers—have demanded and won more and more monopoly rights. These monopoly rights have not, however, protected them from changes in their business model.

Media outlets are scrambling to protect their end product. An internal memo distributed to Associated Press executives in 2009 noted: "The evidence is everywhere: original news content is being scraped, syndicated and monetized without fair compensation to those who produce, report and verify it. AP's legal division continues to document rampant unauthorized use of AP content on literally tens of thousands of websites." (Seward, 2009) Hence it is inappropriate to call the attention of the law makers to this piece of legislation to have another look at the provisions of the Act by way of review since most works in Nigeria today are reproduced with little or no idea of the originator of the work.

From the above assertions, it can be inferred that the fundamental purposes of copyright are, to control the copying of the intellectual properties existing in the field of both journalism practice, literature and the arts, and to promote creativity and originality in the industry and perhaps to protect the writer or artist against unauthorized copying of their contents. To this end this paper seeks to examine copyright law, and perhaps delineate the copyright law and journalism as its two key elements which the subject is premised upon.

REVIEW OF CONCEPTS

Copyright law

In the words of Ian S. (2015), "copyright law grants the copyright holder the exclusive control over the distribution and reproduction of that material. This assertion attempts to strike a balance of intellectual property interest of authors and publishers with society's need for the free exchange of ideas.

In the same light, copyright is viewed as distinct as the exclusionary right of the owner of his intellectual creation to make copies of his work, the right in use, production and exploitation (Cornish, 1999). The law refers to this as a legal concept that concerns rights to copy as it protects the labour, skill and judgment that someone – author, artist or some other creator – expends in the creation of an original piece of work (Feather & Sturges, 2003). The violation of copyright legislation is capable of leading to loss of income, discourage creativity, retard industrial, economic and cultural growth, and deprive the government a huge amount of taxes especially in copyright related industries. To this, Odunowo (2002) insists that awareness becomes necessary. Wahid (2011) maintains that the issue of illegal reproduction and plagiarism could be lack of awareness. The main purpose of copyright law is to protect works that are protected from indiscriminate copying by others. The law also aims to promote public

welfare by advancement of knowledge, creativity, and innovation. Arewa (2007) posits that copyright theory typically reflects an assumption that copying is antithetical to originality and creativity. The Nigerian copyright law (Cap 28, Laws of the Federation of Nigeria) permits the holder of a copyrighted works to reproduce the work in any material form, publish the work, perform the work in public, produce, reproduce, perform or publish any translation of the work, make any adaptation of the work, etc. It is important to note that the rights granted by the copyright protection are subject to exemptions prescribed in the Copyright Act, Cap 28, Laws of the Federation of Nigeria, 2010.

NIGERIA COPYRIGHT COMMISSION (NCC) COPYRIGHT ACT OF NIGERIA

The Nigerian Copyright Act has made some provisions that call for the attention of legal practitioners and other sectors. These provisions in the said Act questions individual are involvement in copyrighted intellectual works and other criminal acts such as replications of creative properties.

The Nigeria copyright commission agency is responsible for all the matters affecting copyright in Nigeria is Nigeria Copyright Commission, this agency supervises all the activities that involves copyright and infringements in the state. The agency makes provisions for the protection, transfer, infringement, and remedies for infringement of copyrights in Nigeria.

This agency discharges the following functions as stated under NCC Act section 34(3) of the copyright Act that, the commission shall be responsible for all matters affecting copyright in Nigeria.

Monitor and supervise Nigeria's position in relating to international convention and advised government.

Advise and regulate conditions for the conclusion of bilateral and multilateral agreements between Nigeria and any other country.

Enlighten and inform the public on matters relating to copyright

Maintain an effective data bank on authors and their works.

Be responsible for such other matters as relating to copyright in Nigeria as the ministry may, from time to time, direct.

All sections of the Act are important in governing copyright-related matters, but for the sake of this study, the research is hinged on exploring the importance and impact NCC plays in checking the activities of infringements.

Copyright Acts

Journalism

Ben u. Nwanne (2016) cited Agee, Ault and Emery (1979) described journalism as "a report of things as they appear at the moment of writing, not a definitive study of a situation". They further claimed that historically, the journalist has been identified by society as carrying out two main functions, reporting the news and offering interpretation and opinion based on the new. He stressed that, journalism has to do with bringing the news of the day quickly to the attention of an impatient audience. The newspaper reader is usually in a hurry as he/she has

other issues to address. But the reader needs to know what is happening around and other places to understand his world and probably make the best out of it. That probably explains why journalists must present their news in an easy and digestible manner. Indeed, the professional journalist must ensure that the news comes to the reader quickly and in a way that makes meaning. Given the nature of journalism, there is a tendency for any writer to claim to be a journalist but for our purposes, a journalist is one who is employed either part time or full time, in a medium of public communication such as newspaper, magazine, television, radio, wire service, news agency or other adjuncts of the media.

BRIEF HISTORY OF COPYRIGHT AND EVOLUTION

Intellectual creation constitutes a specie of property founded in natural law and recognized by the common law. The framing of copyright has a relatively long history and its origins can be traced back to the period before the advent of printing technology, which permitted the printing of multiple copies quickly at relatively little expenses.

Copyright law in most European countries lies in efforts by the church and governments to regulate and control the output of printers. Before the invention of the printing press, writing, once created, could only be physically multiplied by the highly laborious and error-prone process of manual copying by scribes. History has it that the first recorded case of copyright was Finnian V. Columbla (AD 567). Apparently, St. Columbia surreptitiously made a copy of a Psalter in the possession of his teacher Finnian.

However, before the 15th century, most books were written by hand. Books were expensive and few people owned them. If a person was able, they were free to copy any book they pleased. There were no copyright protections. By midcentury, the printing press, invented by Johann Guttenberg made books more accessible to the public. It also made unauthorized copying more widespread. It is noted that in 1662 England began to require that books be registered and licensed. The reason for that was to control writing that could be hostile to the Church or Government. Books suspected of such hostility were seized. Thus, this thread extends to 1710, where author's rights for property was first recognized when the British Parliament established, passed a law that established the principles of authors' ownership of copyright, and prevented a monopoly of booksellers who were able to make fortunes printing books without compensating the authors. It also defined public domain to ensure that a person could use a book as he pleased after they purchased it.

Imperatively, the scope of copyright law has expanded to cover more and more forms of literary and creative works which includes photographs, negatives, films etc. In 1886 the Berne Copyright Convention was formulated with the purpose of promoting greater uniformity in copyright law giving copyright owners full protection in all contracting state. Then it was revised in 1908, and then the universal copyright convention was first promulgated in 1952.

Nigeria as a nation is not left out of the history of copyright with the promulgation of the Copyright Act in 1970. This was followed by the 1988 Copyright Decree (Copyright Act,) CAP. 68, Laws of the Federation 1990, which talked generally about the regulation of copyright law in Nigeria. There's also to the Copyright Amendment Act of 1992. The law governing copyright is enshrined in the Federation of Nigeria 2004.

JOURNALISM AND COPYRIGHT LAW

In journalism practice the aim of copyright law is to protect written, theatrical, musical and artistic work. This law can also be applied to different industries and sectors in the society to protect their properties such as book layouts, sound recordings and broadcasts. The purpose for adopting copyright law in journalism practice is to protect the originality of ones' work and to promote creativity and discourage people from pirating others work.

In the journalistic profession works are copyrighted and such works sources are acknowledged to portend originality of ones' creativity. this suggest that an original work of intellectual property is protectable under the Copyright Law, thus, a journalistic work must contain an element of individuality and personal contribution, particularly with regard to the selection, composition, elaboration and adaptation of its content. The form in which a journalistic work is presented to the public may also classify it under the protective category of a literary, audiovisual or photographic work if said form is a text, video or image.

To cap this, it is important to note that journalism practice is as a term is the production and distribution of reports on current events based on facts and supported with proof or evidence. The word journalism applies to the occupation, as well as collaborative media who gather and publish information based on facts and supported with proof or evidence. Journalistic media include print, television, radio, Internet, and in the past, newsreels. Concepts of the appropriate role for journalism vary between countries.

In some nations, the news media are controlled by government intervention and are not fully (or even partially) independent. In others, the news media are independent of the government but instead operate as private industry. In addition to the varying nature of how media organizations are run and funded, countries may have differing implementations of laws handling the freedom of speech and libel cases. The proliferation of the Internet and smartphones has brought significant changes to the media landscape since the turn of the 21st century. This has created a shift in the consumption of print media channels, as people increasingly consume news through e-readers, smartphones, and other personal electronic devices, as opposed to the more traditional formats of newspapers, magazines, or television news channels. News organizations are challenged to fully monetize their digital wing, as well as improvise on the context in which they publish in print. Newspapers have seen print revenues sink at a faster pace than the rate of growth for digital revenues.

In reality, we know that copyright in journalism has fair dealing which the Copyright Act 1968 (Cth) (the Act) allows for certain circumstances where a media organisation or journalist can use copyright protected material without permission. These include fair dealings.

There are three fair dealing defenses which a media organisation can rely on to avoid copyright infringement. They include:

Fair dealing for news reporting (s 42);

Fair dealing for criticism or review (s 41); and

Fair dealing for parody or satire (s 41A).

Fair dealing for news reporting

A media organisation must meet the following requirements to rely on a fair dealing for the purpose of news:

The copyright owner is sufficiently acknowledged; and use of the copyright material must be for the purpose or associated with the news reporting.

Media organisations also should be wary of playing musical works in the course of their news reporting. Playing musical works is not a fair dealing under s 42(2) of the Act if the music does not form part of the news which is being reported.

Fair Dealing for The Purpose of Criticism or Review

A fair dealing for the purpose of criticism or review also requires that the copyright owner is sufficiently acknowledged. The criticism or review must involve making a humorous and genuine judgment of the material. Hence, a journalist can reproduce passages for the purpose of critiquing or reviewing the work as long as they have sufficiently acknowledged the author and have not excessively used the material.

Fair Dealing for The Purpose of Parody or Satire

In the above stated fair dealings, unlike the first two fair dealing exceptions, a media organisation is not required to acknowledge the copyright owner sufficiently when relying on a fair dealing for the purpose of parody or satire. However, the use of copyright material must be fair. While the courts have not yet considered what constitutes fair, the Australian Copyright Council has provided helpful guidance. Some relevant factors for determining fairness can include:

How much material is used;

The context of the satire or parody; and

Whether the owner would license their material for this use.

THE NIGERIAN COPYRIGHT COMMISSION AND THE ADMINISTRATION OF COPYRIGHT

It is in recognition of the importance of creative arts, intellectualism; and the negative and damaging effect of piracy that the Nigerian Copyright Commission (NCC) sought to fight piracy to a standstill/halt.

The primary features of intellectual property rights***Property Rights***

Copyright as a form of property was initially conceived of as a "chose in action", that is an intangible property, as opposed to tangible property. In the case of tangible property, the property rights are bundled with the ownership of the property, and property rights are transferred once the property is sold. However, in contrast, copyright law detaches the exclusive rights granted under property law to the copyright owner from ownership of the good which is regarded as a reproduction. Hence the purchaser of a book buys ownership of the book as a good, but not the underlying copyright in the book's content.

The question of whether copyright is property right dates back to the Battle of the Booksellers. In 1773 Lord Gardenston commented in *Hinton v. Donaldson* that "*the ordinary subjects of property are well known, and easily conceived...But property, when applied to ideas, or literary and intellectual compositions, is perfectly new and surprising...*" Courts, when strengthening

copyright, have characterized it as a type of property. Companies have strongly emphasized copyright as property, with leaders in the music and movie industries seeking to "protect private property from being pirated" and making forceful assertions that copyright is absolute property right.

According to Graham Dutfield and Suthersanen, copyright is now a "class of intangible business assets", mostly owned by companies who function as "investor, employer, distributor and marketer". While copyright was conceived as personal property awarded to creators, creators now rarely own the rights in their works, because most of these copyrights have been sold off by their inventors.

PHOTOCOPYING PRACTICE IN NIGERIA

In journalism profession, the term 'photocopying' covers a majority of the processes used for permanent reproduction of text. Cornish and Llewelyn (1999) asserts that copying covers causal connection, subconscious copying, indirect copying, substantial taking and unaltered copying. Copyright comes under pressure in a largely illiterate society like Nigeria, as the purveyor of pirated audio and video cassettes, the shopkeeper who sells pirated copies of popular textbooks and the student who makes a photocopy of an entire textbook for his use are all reacting in their own way to the situation (Guobadia, 1989). One of the major ways of violating an author's right in Nigeria is through the means of indiscriminate photocopying of copyrighted resources. As a result of the high prices of books, especially foreign books, many Nigerians resort to indiscriminate photocopying of copyrighted works. Adoki (2002) laments that this situation, in addition to the shortage of books have led to the boom of photocopying business in Nigeria. Today, photocopying or unauthorized reproductions of copyright works are rampant with utmost disregard for the interests of copyright owners, and such infringement has become a culture (Adoki, 2002).

This phenomenon is attributed to the low level of copyright awareness in Nigeria, which has also militated against effective copyright administration in the country. Bush & Dreyfuss (1979) believes that the question of a practical solution to the photocopying problem is one of the most difficult issues facing humanity. Ekwensi (1992) connected this to the shortage of books, which have made photocopying business a lucrative venture in Nigeria, so that photocopying of texts without regard to copyright law has become a norm, and an issue worth looking into.

Photocopying of library resources serves many roles in the Nigerian education system; it is used in information dissemination on a large scale among students, lecturers and researchers in the tertiary institution environment in Nigeria and also keeps the educational system going. A key responsibility of librarians is providing access to information to all in order to generate the creation of new intellectual property (Darkey & Akussah, 2008). One way to make access easier is through the provision of photocopying services for users. The practice of photocopying in the library also prevents the mutilation and theft of books of library books (Igbeneghu, 2009). However, photocopying of copyright materials should be done within the stipulated standards since not every student has enough money to buy all the information resources needed for their study, therefore students have come to depend so much on photocopying for survival in their study and researches (Ajegbomogunm, 2011). But Adusei, Anyimadu-Antwi & Halm (2010) have found that photocopying activities exceed the limits permitted by copyright law because

there are inadequate textbooks in the university libraries to support the large student population, in addition to the problem of inability for students to afford foreign textbooks.

In spite of the usefulness of photocopying, it has argued that photocopying poses a danger to the growth and development, because of the rate of photocopying activities going on in different parts of the world (Lahood and Sullivan, 1975). It is crucial to understand that in spite of the harsh realities of the present economic situation in Nigeria or elsewhere, there is no justifiable reason whatsoever for one to rob another in order to survive. Besides, the harsh effect is cushioned by the presence of libraries. Recourse could be made to the library for books that are not readily affordable, rather than infringing the beneficial rights of copyrighted owners of creative works. It is criminal, fraudulent and cheating to do any acts or omission which will deprive an owner of copyrightable work the benefits of his labour (Adoki, 2002). Works of others should not be used without their permission unless the use has been authorized by the copyright owner or the use is within the exceptions provided in the law under the doctrine of fair use.

Work Eligible for Copyright

In this modern age, what is being rewarded is the mental decision to create the work coupled with the toil or labour to bring it to fruition. The basic notion of protected works of copyright is that it is limited to the expression of an idea, principles, systems, methods and so on, fixed in any tangible medium of expression or in any material form. In this discourse, the following are types of copyright laws;

LITERARY WORK

The Copyrights Act of 2004 in its section 39 defines literary works to include *(a)* novels, stories and poetic works; *(b)* plays, stage directions, film scenarios and broadcasting scripts; *(c)* choreographic works; *(d)* computer programmes; *(e)* text-books, treatise, histories, biographies, essays and articles; *(f)* encyclopedias, dictionaries, directories and anthologies; *(g)* letters, reports, and memoranda; *(h)* lectures, addresses and sermons; *(i)* law reports, excluding decision of courts; *(j)* written tables or complaints. These works can be claimed irrespective of its quality, style or literary merit.

Section 3 of the Copyright, Designs and Patents Act 1988 also defines the word literary work as well. The courts have long since been prepared to take a very wide view of what constitutes a literary work. See *University of London Press Ltd V. University Tutorial Press Ltd* (1916) 2 Ch. 601 at 608.

Section 5(1) (a) of the Copyright Act grants the owner of a literary work in Nigeria the exclusive right to control the doing of any of the following acts; (i) reproduce the work in public; (ii) publish the work; (iii) perform the work in public; (iv) produce, reproduce, perform or publish any translation of the work; (v) make any cinematograph film or a record in respect of the work; (vi) distribute to the public, for commercial purposes, copies of the work, by way of rental, lease, hire, loan or similar arrangement; (vii) broadcast or communicate the work to the public by a loud speaker or any other similar device; (viii) make an adaptation of the work; (ix) do in relation to a translation or an adaptation of the work.

MUSICAL WORK

A musical work is defined as any musical composition irrespective of musical quality and includes work composed for musical accompaniment. The Copyright Act does not necessarily; require writing or other graphic presentation, so the above definition would have to be fixed in a definite medium of expression.

A song will have two copyrights: one in the music and one in the words of the song, the latter being a literary work. The work must be reduced in writing or otherwise, the Copyright, Designs and Patents Act 1988, the UK version of the Act gives no guidance as to what a musical work is. Making a new performing edition of an incomplete old work of music out of copyright may itself be worthy of copyright protection even if few or no new notes are added. In *Hyperion Records Ltd v. Dr. Lionel Sawkins* (2005) RPC 808, Dr. Sawkins wrote new performing edition of some of Lalande's baroque musical compositions. He added a figured bass (numbered guidance to musicians, giving them some flexibility in playing the piece of music). He also corrected notes that he considered wrong or unsatisfactory. It was held by Mummery LJ that he has created a new work. The Copyright Act, 1990 also grants the owner of a musical work the same exclusive right as that of the owner of a literary work.

ARTISTIC WORK

The artistic work category is a diverse one and includes several different types of works. The Act defines an artistic work to include any of the following work (s) similar thereto: *(a)* paintings, drawings, etchings, lithographs, woodcuts, engravings and prints; *(b)* maps, plans and diagrams; *(c)* works of sculpture; *(d)* photographs not comprised in a cinematographic film; *(e)* works of architecture in the form of buildings models; and *(f)* works of artistic craftsmanship and also (subject to section 1 (3) of this Act) pictorial woven tissues and articles of applied handicraft and industrial art;

While section 4 (1) of the Copyright, Designs and Patent Act 1988 (UK) defines artistic work as *(a)* a graphic work, photograph, sculpture or collage, irrespective of artistic quality; *(b)* a work of architecture being a building or a model for a building or *(c)* a work of artistic craftsmanship. Relatively, simple things such as football club badges are works of artistic copyright. *Football Association Premier League Ltd v. Panini UK Ltd* (2004) 1 WLR 1147 This principle also applies to crests applied to porcelain articles and patterns applied to tableware. It appears that for works falling into the last category of artistic works, that is, works of artistic craftsmanship, some qualitative characteristics are required. Works of artistic craftsmanship give rise to the greatest difficulty amongst artistic works.

In *George Hensher Ltd v. Restawhile Upholstery (Lancs.) Ltd* (1976) AC 64, a prototype made for a suite of furniture described a 'boat-shaped'. The House of Lords held that the prototype was not a work of artistic craftsmanship and that for something to fall into this category it must, in addition to being the result of craftsmanship, have some artistic quality.

CINEMATOGRAPHIC FILM

Cinematograph film is defined in the Act to include the first fixation of a sequence of visual images capable of being the subject of reproduction, and includes the recording of a sound track associated with the cinematograph film.

The owner of cinematograph work has the exclusive right, to do or authorize the doing of any of the following acts, that is- (i) make a copy of the film, (ii) cause the film, in so far as it consists of visual images to be seen in public and, in so far as it consists of sounds, to be heard in public, (iii) make any record embodying the recording in any part of the sound track associated with the film by utilizing such sound track, (iv) distribute to the public, for commercial purposes copies of the work, by way of rental, lease, hire, loan or similar arrangement.

SOUND RECORDING

Sound recording means the fixation of a sequence of sound capable of being perceived orally and of being reproduced but does not include a sound track associated with a cinematograph film.

The owner of a sound recording shall have exclusive right to control in Nigeria- (a) the direct or indirect reproduction, broadcasting or communication to the public of the whole or a substantial part of the recording either in its original form or in any form recognizably derived from the original; (b) the distribution to the public for commercial purposes of copies of the work by way of rental, lease, hire, loan or similar arrangement.

BROADCASTS

The Act defines broadcast to mean sound or television broadcast by wireless telegraphy or wire or both, or by satellite or cable programmes and includes re-broadcast;

Section 7 of the Copyright Act, 2004 states that Copyright in a broadcast shall be the exclusive right to control the doing in Nigeria of any of the following acts, that is- (a) the recording and the re-broadcast of the whole or a substantial part of the broadcast;

(b) the communication to the public of the whole or a substantial part of a television broadcast, either in its original form or in any form recognisably derived from the original; and

(c) The distribution to the public for the commercial purposes, of copies of the work, by way of rental, lease, hire, loan or similar arrangement.

(2) The copyright in a television broadcast shall include the right to control the taking of still photographs from the broadcast.

RECOMMENDATIONS

Based on the study, this paper made the following recommendations;

The world intellectual property organization should enact stricter laws to protect activities of pirating audio and video works, and the sale of pirated copies of popular books.

There is need to raise the level of awareness of people about copyright law in order to discourage flippant and ignorant violations of the copyright law. It is also imperative that there be mechanism for severe enforcement of copyright provisions. However, this should not be done at the expense of research, innovation, and education.

CONCLUSION

In the modern world, it is now the vogue for each country to make laws to protect her citizens' intellectual property from unwarranted assault by unauthorized persons. This is the underlying principle for the promulgation of the Copyright Act. As laudable as this law appears to be, lack of proper enforcement is a bane for its effectiveness. It is my view that the Act will become more

effective, if Government and all those who are concerned with the scheme of the Act are called upon to see to the effective implementation of its provisions. Moreover, there is the need to have another look at the sections of the Act that deal with remedies for infringement of a copyright, to review and provide stiffer penalties for them. All said and done, the beneficiaries of the Act must act in concert to assist Government to see to the full implementation of the provisions of the Act.

References

- Adoki, Y. 2002. Economic and cultural basis for copyright protection, In J.O. Ajegbomogun, V. (2011). Copyright violation in Nigerian academic library: a case study of Kenneth.
- Adusei, P., Anyimadu-Antwi, K. & Halm, N. (2010). *Access to Knowledge in Africa - The Role of Copyright*. (Armstrong, C., de Beer, J., Kawooya, D., Prabhala, A. and Schonwetter, T. (eds.)). UCT Press in association with the International Development Research Centre, the Shuttleworth Foundation, and the LINK Centre, Graduate School of Public and Development Management (P&DM), University of the Witwatersrand. <http://www.idrc.ca/openbooks/490-1/> (Accessed 29/10/2010).
- Ajegbomogun, V. (2011). Copyright violation in Nigerian academic library: a case study of Kenneth Dike Library, University of Ibadan, Nigeria. *Gateway Library Journal*. 14: 2, 163 – 176.
- Arewa, O. 2007. The Freedom to Copy: Copyright, Creation, and Context. Retrieved from https://lawreview.law.ucdavis.edu/issues/41/2/articles/DavisVol41No2_Arewa.pdf.
- Babafemi, F. O. (2007) *Intellectual property: the law and practice of copyright, trade marks, patents and industrial design in Nigeria*. Ibadan, Justinian Books Limited.
- Dike Library, University of Ibadan, Nigeria. *Gateway Library Journal*. 14: 2, 163 – 176
- Cornish, W. R. (2007). *Intellectual property: patent, copyright, trademark, and allied rights* 4th ed. London: Sweet & Maxwell
- Feather, J., & Sturges, P. (2003). *International Encyclopedia of Information and Library Science* (2nd ed.). Routledge Publishers, U.S.A.
- Helen Norman, (2005). *Intellectual Property* University of London Press.
- Odunowo, T.A. (2002). Nigerian copyright law: a judicial overview. In J. O. Asein & E. S. Nwauche (Eds.), *A decade of copyright law in Nigeria* (pp54 -65). Abuja: Nigerian Copyright Commission Publishers.
- Paul Marett, (1996). *Intellectual Property Law*, London: Sweet & Maxwell
- Wahid, R. (2011). The Fairness of 'Stealing' Knowledge for Education. *Journal of International Commercial Law and Technology*. Vol. 6. Issue www.jiclt.com/index.php/jiclt/article/download/129/126
- Yemi Osinbajo and Kedinga Fogam, (1991) *Nigerian Media Law*, Lagos: Gravitas Publishment.
- The Copyright, Designs and Patent Act 1988.
- Copyright Act, CAP. 68, Laws of the Federation 1990.
- Justus A. Sokefun, An overview of the Protection of Intellectual Property in Nigeria: *The Nigeria Journal of Private and Commercial Law*, Vol.2 (2001) Olabisi Onabanjo University, Ago-Iwoye.
- Yusuf O. Alli Esq.; SAN; Principal Partner, Yusuf O. Alli & Co., Ilorin. Volume 5 Revised Edition, Law of the Federation of Nigeria, 1990, Cap. 68.
- Copyright Decree No. 1 of 1997.
- Copyright Act of United Kingdom 1911.
- Caps 68 of 19th December 1988. Laws of the Federation, 1990.
- Decree No. 107 of 1993 Constitution of the Federal Republic of Nigeria 1979.